

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 12-1590 (DSD/LIB)

Stuart Douglas Larson,

Petitioner,

v.

ORDER

Tom Roy, Commissioner of
Corrections,

Respondent.

This matter is before the court upon the pro se application to proceed in forma pauperis (IFP) on appeal by petitioner Stuart Douglas Larson.

A litigant who seeks to be excused from paying the filing fee for an appeal may apply for IFP status under 28 U.S.C. § 1915. See also Fed. R. App. P. 24(a). To qualify for IFP status, the litigant must demonstrate that he or she cannot afford to pay the full filing fee. 28 U.S.C. § 1915(a)(1). In this case, the record shows that Larson is not receiving regular income, except for nominal wages from a prison job. It further appears that he has no bank accounts or assets that could be used to pay the filing fee for his appeal. Based on the information that has been furnished by Larson, the court finds that he is financially eligible for IFP status.

Even if a litigant is indigent, IFP status will be denied if the court finds that the litigant's appeal is not taken in "good faith." 28 U.S.C. § 1915(a)(3). Good faith in this context is

judged by an objective standard and not by the subjective beliefs of the appellant. Coppedge v. United States, 369 U.S. 438, 444-45 (1962). To determine whether an appeal is taken in good faith, the court must decide whether the claims to be decided on appeal are factually or legally frivolous. Id. at 445. An appeal is frivolous, and therefore cannot be taken in good faith, "where it lacks an arguable basis either in law or in fact." Neitzke v. Williams, 490 U.S. 319, 325 (1989).

Although the court remains fully satisfied that Larson's habeas corpus petition was properly denied, his appeal is not frivolous.¹ As a result, the appeal is taken "in good faith" for purposes of 28 U.S.C. § 1915(a)(3) and Federal Rules of Appellate Procedure 24(a)(3). Therefore, the IFP application is granted.

Accordingly, based upon the above, **IT IS HEREBY ORDERED** that petitioner's application to proceed in forma pauperis [ECF No. 10] is granted.

Dated: January 8, 2013

s/David S. Doty
David S. Doty, Judge
United States District Court

¹ In so stating, the court takes no position on the timeliness of Larson's appeal.